G. R. S. IX-5]

*Previous references.*

File No. 4-21.

Serial Nos. 4-61-42

192/

( Cts. )

*Later references.*

Cts 204-24 sls 1-4.

Preserve
25/2/43

# GENERAL AND REVENUE SECRETARIAT.

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*Serial Nos.* ~~Four~~ Three

**Part B for** May 1922

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SUBJECT.

Delay in the disposals of the Commercial litigation by the Civil Courts in the State.

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WD 1888—GPB—16,826—23-7-21

Gh. Nazer Hussain.

Dno 223

G.R.S. III—3]

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

DIARY No. 102 g

SECTION

FILE No.

SUBJECT.

CHIEF SECRETARIAT
III
PROTECTION BRANCH
8 JUL 1921

To the Courts Section
for taking an extract
~~for~~ of the Secy's notes,
with a copy of the report
of the committee of the M.C.J.
Comment and further needful
action.

8/7/21

8.7.21

2) Draft dated
21/7/21.

3) Issued
D. No. 542 dt 5-8-1921

See pages 13. 17 + 19
of the report.

5/8.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

S. R. S. 111-2]

General and Revenue Secretariat. | Cb File No. 4 of 1921. 2

Serial No.

2 Petition of mil from the Merchants of Bangalore pray that Commercial Causes may be given preference to all other cases in a civil court as much loss and inconvenience is felt on account of the extraordinary delay in the disposal of the Commercial cases filed

4) The Mysore Chamber of Commerce complained of this unreasonable delay and a report has been called for from the Registrar Chief Court re the pendency of the cases in the matter. The reply may if approved be awaited. (The postcard)

5) Yes. cag 8/10.

7. Cb. 4 8/10

6) send with a brief reminder

7) Issue. cag 9.10.

Issue 9/10

9.10.21 9/10

x destroyed.

Letter No. D2 dis 1039 dt 21.3.22

From The Registrar, Chief Court

With refce to this office enquiry dated 5 aug 1921 in the matter of delays in the disposals of the Commercial litigation by the Civil Courts

NOTE—Contn. sheet.

3646
9

G. R. S. III-21

General and Revenue Secretariat. | C4 File No. 4 of 1921.

Serial No.

in the State forwards the opinion of the Judges on the several suggestions contained in the Report of the Chamber of Commerce.

8) Submitted for orders.

Bnw 29/3/22
WD 29/3

9) The point was urged in the Rep. Assembly to fix a time limit for disposal of Commercial suits. The answer was in the negative. No further action is necessary. The address of the Chamber of Commerce also was not an official communication requiring an answer. As the complaints are not quite sound & nothing can be done & as replies have been given in the R.A. no action is necessary. Papers may be filed.

Cary

11 MAY 1922 JUDICIAL SECRETARIAT

NOTE—Contn. sheet.

Secl. & Diary No. 102 J

4

Letter No. 67 dated the 10th June 1921 from the Secretary, Mysore Chamber of Commerce, to the Chief Secretary to Government.

*****

In forwarding herewith five copies of the Chairman's speech delivered at the Annual Meeting held on the ~~28th~~ 28th May 1921, I am directed to request that the attention of Government may kindly be drawn to the Chairman's speech touching the delay in the disposal of Commercial litigation by the Courts, (b) the insufficiency of Railway waggons and (c) the establishment by the Government of India of a Currency Chest for the State.

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" C O P Y "

For perusal

The Chamber has be asked to make a Seperate reference in regard to Note Currency - As regards (2) & (3) Extracts may perhaps be Sent to the Chief Court (Nirnaya Courts Section) & the agent Mysore Railways for disposal

Sd. Illegible S. R 14/6/21

Secy Ex A)

Please Send a Copy of this & one Copy of Enclosure to Each branch Concerned for taking further action

Sd. K. M 24/6/21

Extract from the speech of the Chairman of the Mysore Chamber of Commerce.

*****

First and foremost must be placed the inordinate, I may say almost notorious delay in the disposal of commercial litigation by our judicial tribunals. I am aware of the stock answer that will be given to the complaint, that such delay is not peculiar to this State, but common to all countries. But, gentlemen, that "delay is common" does not make our grievance less bitter, rather more, -- especially when as must be readily admitted, the quantity of real commercial litigation in our State is, by the very conditions of trade here, comparatively trifling, and its nature generally less complicated, and mostly petty, as compared with litigation in more advanced countries. Reform in the practical handling of cases by our Judges from start to finish, from the service of notice on the defendant to securing the arrest of the judgment debtor or bringing his assets to sale, is absolutely necessary for the encouragement of honest trade in the State. Icannot, indeed, see why substituted service is not more frequently resorted to in the case of an evading defendant or judgment debtor instead of the plaintiff or decree-holder being entirely left, as at present, at the mercy of that most notorious limb of the law, the Amin. Why, again, Re Summary procedure bills referred to claims on promissory notes and bills of exchange sanctioned by Government on our motion in 1919, has not found application in our courts and in practice has borne so little fruit so far, is a matter which requires looking into. The frequent applications for adjournment is another evil which could be mitigated, either by firm action on the part of the presiding Judge or infliction of the heavy cost of the day's proceedings on the party asking for the adjournment. Then, again, is it not possible to reform procedure of courts in such a manner as to secure the arrest of a judgment debtor within the jurisdiction of different courts in the State by process of one Court? In these days of quick transit nothing is easier than for a recalicitrant judgment debtor, say in Mysore town, to keep moving between Mysore Seringapatam and Nanjangud, and laugh at the vain efforts of his

creditor to bring him to book before the Court. Is it not possible for the Government to institute a confidential section in each Court, under the supervision of a responsible officer- not one like the present official, who has nothing to lose but everything to gain by delays- to secure that the information regarding attachment and arrest does not leak out to the judgment debtor in advance of the issue of process as is notoriously common at present? I have detailed only a few of the crying evils relating to the procedure in Civil Courts, whose reformation is urgently called for, if the present abnormal delay, resulting naturally in heavy cost of commercial litigation, should be avoided. If the Government consider that the constitution of our Civil Courts is such that the special ~~prompt~~ procedure for the prompt disposal of suits above suggested cannot be adopted. I think the Chamber should urge the Government to institute a special class of commercial courts for remedying the present evil the magnitude of which and its paralysing effects on honest dealings cannot be exaggerated.

While on this subject, I should like to refer to one other rather important point. The rate of interest allowed by Courts o decree debts, which is generally 6 per cent, is too low in these times when compared with the present market rate. I know of several cases in which the debtor keeps back the debt, and forces the creditor to go to Court, feeling confident of having to pay a smaller interest after decree, and putting off the payment of same for years more. A circular from the Chief Court inviting th attention of Judges to the necessity of awarding interest on decree amount, not lower than the prevailing market rate, would perhaps conduce to mitigate the heavy loss to which creditors are often now subjected.

x x x x

E X T R A C T.

*Extract from the Daily Post, dated the 28th and 30th May, 1921.*

Copy to the courts section

# Mysore Chamber of Commerce.

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## THE REPORT

OF THE

## COMMITTEE

**For the year 1920-1921.**

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BANGALORE:

Printed at the Bangalore Daily Post Press.

# The Mysore Chamber of Commerce, Bangalore.

The Report of the Managing Committee for the year 1920-21, is as follows :—The Managing Committee of the Mysore Chamber of Commerce have the pleasure to submit to the members of the Chamber their Fifth Annual Report for the year ending 30th April, 1921.

Summary of the Trade of the State for the year 1919-1920. The trade of the State during the year has been satisfactory, as is shown by the following figures, which are extracted from the concise review of the Deputy Director of Commerce and Statistics, on the rail-borne trade of the State.

"The total trade of the State during the year was valued at 26'84 crores of rupees, as against 24'30 crores of rupees in 1918-19, and as against the previous four years' average of 17'84 crores of rupees. The trade in merchandise was worth 23'75 crores of rupees and that in Treasure 3'08 crores of rupees.

The value of the imports rose from 12'54 crores to 13'38 crores of rupees, by 7 per cent. The value of the exports rose from 11'76 crores of rupees to 13'45 crores of rupees, by 14 per cent.

Compared with the previous year, merchandise was imported 9 per cent more, and treasure 34 per cent less. Under exports, too, merchandise was 19 per cent more and treasure 1 per cent less."

## Members.

On 1st May 1920, there were on the list 97 members, of whom 63 were local and 32 mofussil and two Honorary. During the year under review, 13 local and 15 mofussil members were enrolled, and 11 local and 16 mofussil members resigned. Thus there were 65 local, 31 mofussil and two honorary members, making a total of 98 on the list as on 30th April, 1921, showing an increase of one member compared with last year.

## Accounts.

The audited accounts of the Chamber are submitted, and it will be observed that the total amount of subscriptions collected, including the Government grant of Rs. 850 for the year 1920-21, amounted to Rs. 5,868-2-0, and the total expenditure amounted to Rs. 2,678-3-6, thus leaving a balance of Rs. 3,189-14-6, which compares very favourably to the last year's figures, by an increase in receipt and decrease in expenses.

## General Meetings.

The Fourth Annual General Meeting of the members of the Chamber was held on Saturday the 15th May, 1920, and as usual, a copy of the full proceedings as well as the Annual Report for 1919-20 has been sent to all the members of the Chamber.

## Extraordinary General Meetings.

There were two extraordinary General Meetings of the Chamber during the year under review. The first was held on Thursday, the 26th of August, 1920, to elect two representatives of the Chamber to the Mysore Representative Assembly as per Government Notification No. G. 28217-67-R. A. 40-18-1 dated the 20th June. 1919. The second was held on Friday, the 26th November, 1920, to elect the Chamber's representative on the Board of Industries and Commerce of the Economic Development Board, and to consider certain important subjects in connection with the arrangement of railways in India.

## Special Emergency General Meeting.

There were two Special Emergency General Meetings of the members of the Chamber during this year. The first one was held on Thursday, the 14th October, 1920, to consider the question of the Income tax-Bill and Rules recently introduced in the State. The Second was held on Wednesday, the 26th January, 1921, to consider the question of Railway thefts, etc.

## Special Meeting.

A Special Meeting of the Managing Committee was held on Wednesday, the 6th October, 1920, to consider the difficulties regarding the operation of the Income-Tax Regulation in the State.

## Committee Meetings.

The Managing Committee met 7 times during the year, and the several members of the Managing Committee were present at the above meetings as stated below.

| | | Attended | Meetings. |
|---|---|---|---|
| 1 | Mr. B. K. Garudachar (Chairman) | 7 | do |
| 2 | Mr. M. Hariyanna, (Vice-Chairman) | 7 | do |
| *3 | Mr. W. C. Rose. | 3 | do |
| 4 | Mr. M. V. Subbiah, | 6 | do |
| 5 | Mr. P. M. Basappa, | 6 | do |
| 6 | Mr. M. Ramachandra Rao Scindia, | 5 | do |
| 7 | Mr. P. A. Barton | 3 | do |
| 8 | Mr. H. Fraser | 3 | do |
| 9 | Mr. V. Lakshmanswamy | 2 | do |
| 10 | Mr. W. St. Clair Johnson | 0 | do |
| 11 | Mr. Md. Abbas Khan | 0 | do |
| 12 | Mr. Devarao Shivaram | 0 | do |
| 11 | Mr. L. A. Pourwal | 0 | do |

*Mr. L. A. Pourwal, resigned his place on the Managing Committee, and under Clause 9, (13) of the Rules and Regulations of the Chamber, the vacancy was filled up by the election of Mr. W. C. Rose.

## Representatives of Public Bodies of the Committee.

Mr. H. Fraser, the District Traffic Superintendent of the Madras and Southern Mahratta Railway Company, Ld., Mr. P. A. Barton, of the Bangalore Trade Association and Mr. W. St. Clair Johnson, the nominee of the United Planters' Association, were on the Committee during the year. The assistance of Mr. H. Fraser and Mr. P. A. Barton was of the greatest help to the Committee, and to them our thanks are due.

## Representatives of the Chamber on Public Bodies.

Messrs. P. A. Barton and M. Ramachandra Rao Scindia represented the Chamber on the Mysore Economic Conference and the Industries and Commerce Committee till the end of December, 1920.

Mr. M. V. Subbiah represented the Chamber on the Economic Development Board and the Bangalore City Municipality.

Messrs M. Ramachandra Rao Scindia and K. B. Puttappa represented the Chamber on the Mysore Representative Assembly.

Mr V. Lakshmanswamy continued to represent the Chamber on the Bangalore District Board.

## Renewal of Concession by the Government of Mysore for a Further Period of Two Years.

The original concession granted to the Chamber by the Government of Mysore for three years in their G. O. No. 6160-67 A. I. 159-13-3, dated the 25th April 1916, was kindly renewed for a further period of two years by the Government in their Order No. 1130-5 I. & C.—35-19-23, dated the 30th July 1920, for which the Chamber are thankful to the Government of His Highness the Maharaja of Mysore.

## Chamber's Weekly Price Current and Market Report.

The report is now being printed by a private press, and every endeavour was made for its prompt publication on Monday. The circulation of the report is on the increase, the number of copies now weekly circulated being about 250. There is a demand for the report from foreign countries, and the request is readily acceded to.

## Railway Difficulties.

Turning our attention to the various important subjects dealt with by the Chamber during the year under review, the question of railway difficulties occupied the prominent place. Numerous complaints have been and are being still received from various centres about the difficulties which trade is being put to on account of a shortage in the supply of waggons, (2) the vexatious and tedious delay in the settlement of claims, (3) the thefts in goods-sheds and waggons, (4) the increasing tendency for Railway Companies to shirk their responsibility for losses incurred, under the

pretext of Owner's Risks Note, (5) and the enforcement of the execution of Power of Attorney by merchants for clearance of goods. These subjects have already been represented and frequently discussed, and your committee is glad to inform the members that Mr. H. Fraser, District Traffic Superintendent and the representative of the Madras and Southern Mahratta Railway Co., Ltd., in the Chamber, has promised to redress the grievances as far as it is possible.

Regarding the question of the execution of Power of Attorney to clear goods, the Railway Authorities have decided that there is no need for the execution of a Power of Attorney in cases in which a railway receipt has been endorsed to his Agent, etc, by the consignee.

## Administration of Railways in India.

With reference to Resolution No. 405-F-19, dated the 9th October, 1920, from the Railway Board, Government of India, regarding certain matters connected with the administration of Railways in India, the Committee replied that it is desirable, that, whether the management of the Railways in India be by the State or by Indian Companies, the general public, and in particular the commercial community, should in some manner be adequately represented on such management, and that local consulting committees should be established with a definite status and entrusted with specific duties and responsibilities.

## The Indian Railway Board Committee.

Messrs. B. K. Garudachar and W. C. Rose, were selected to give evidence before the Indian Railway Board Committee, and as it was found inconvenient to give evidence in person, written evidence was sent. Regarding the question of Capital funds for Railways, it was observed that so long as no share in the control of Railways was given to the people of India, there was no likelihood of investments in Indian Railways becoming popular with Indian investors. The Institution of a Railway Department of the Government of India with a Minister of the Viceroy's Council at its head, and an advisory

Board consisting of Railway Agents and commercial men, was suggested in place of the present Railway Board and London Boards, as such a step would lead the people of India to realise that they have a direct voice in the control and management of their Railways.

## Indian Railway Police Committee.

At the request of this Chamber, Messrs. Hanson and Ross, of the Indian Railway Police Committee, kindly held a sitting at the "Daly Memorial Hall", Bangalore, on Monday, the 7th February, 1921, when several witnesses were examined. The present points suggested for preventing and minimising the thefts were as follows :—

(a) A better method of recruiting and improving the Ward and Watch Staff, and of making this department independent of the Station Master.

(b) The opening of a priority register, where applications for the supply of waggons could be entered in succession.

(c) The prevention of casual labourers from being employed by the Railway Company, and forcing all Railway coolies to wear badges on their arms and their consequent identification, by separate numbers.

(d) Patrolling of the goods-sheds by the Railway Police.

(e) The stoppage of "running train thefts" by making a member of the Railway Police to travel with the guard of a goods train, and holding the former responsible for all locks and seals being intact at all halting and transhipment stations.

(f) Employment of a travelling Police Magistrate, who would visit stations within his radius at least once a fortnight.

(g) Unemployment of a discharged employee of any Railway Company, unless he should possess satisfactory testimonials.

(h) Immediate dismissal of a Railway Employee in cases of any proved charge against him, forfeiting his provident fund and security deposit.

(i) The assumption of all risks by the Railway Company for shipments, by levying a small graduated fee of insurance or by increasing the present freight charges, and thus dispensing with risk note forms.

(j) The existence of a strong room arrangement in all mail trains for conveying gold and silver bullion, etc., and the imposing of an insurance fee of $\frac{1}{4}$ per cent. for protecting the Railway Company against losses.

## Mysore Stock Exchange.

In reply to a letter from the Financial Secretary to the Government of Mysore, regarding the establishment of a Mysore Stock Exchange, the Committee replied that this is not a suitable time to start the scheme.

## Carriage of Bunker Coal by Sea

With reference to a telegram from the Secretary, Railway Board, Simla, regarding the carriage of coal by sea instead of by rail, the Committee replied, by wire, supporting the Government of India order to carry all bunker coal to all Indian ports other than Calcutta by sea and not by rail, and urged that proper arrangements be made for the speedy despatch of coal to the interior parts of the country by rail from Madras Port.

## Non-payment of V. P. Articles

The Committee received complaints from various members regarding the non-payment of V. P. Articles by the Post Office. The Postal authorities were addressed in the matter, and the Committee are glad to state that the claims have been fully settled by the Postal authorities, who have also assured the Chamber that there will be no occasion for such complaints hereafter. Our thanks are due to the Postmaster-General for the expeditious way in which he handled the subject.

## Publication of a "Mysore Directory."

Your Committee resolved at one of their meetings to publish a Directory containing the names and addresses of merchants and manufacturers in the State, and necessary action is being taken in the matter.

## General Telephone System in Bangalore and Mysore.

Your Committee have been repeatedly urging Government for the early installation of the General Telephone System in Bangalore and Mysore, which has now become an urgent necessity, and a reply has been received that the question will be taken into consideration after the overhauling of the entire system is finished. The Committee suggests that this matter should be pressed again by the incoming Committee.

## The Secretary's Visit.

During the year under review, the Secretary of the Chamber visited several important trading centres, such as Mysore, Shimoga and Thirthahalli, on propagandistic work. The thanks of the Chamber are due to the several gentlemen who helped the Secretary in various ways on these occasions.

## Mysore State Railways.

Your Committee addressed the Mysore Railway Authorities, Mysore, enquiring the reason for the enhancement of freight on timber since the Bangalore-Mysore-Nanjangud Section was taken by the Mysore Government from the Madras and Southern Mahratta Railway Co., Ld., and what notice was given to the public before the new rate was brought into force. A reply has been received to the effect that no fixed period of notice is necessary in the case of alterations in rates, as these may, at any time, be altered at the option of the Railway provided the maxima and minima imposed by Government are not infringed. Such a procedure is in complete variance with that adopted by Railway Companies in India, who usually introduce enhancements of rate after one or two months' notice. It is desirable that the Mysore State Railways should act on a similar manner, and the Government be addressed in the matter.

## Survey Certificate.

Your Committee received one requisition for a Survey Certificate this year from one of the members of the Chamber, and they trust this

satisfactory mode of adjusting differences will be taken more advantage of by the mercantile community.

### Coal Situation.

Having received complaint about the importation of coal from one of the local Foundries, your Committee addressed the Coal Control authorities on the subject. It helped the member of the Chamber in securing waggons for coal supplies.

### Legislative Measures.

Regulations passed by the Mysore Legislative Council, since May 1920, affecting Trade and Commerce.

1. The Mysore Income-Tax Regulation.

2. Regulation further to amend the Mysore Forest Regulation 1900.

3. Regulation further to amend the Mysore Land Revenue Code, 1888.

4. Regulation further to amend the Mysore Municipal Regulation, 1906.

5. Regulation further to amend the Mysore Excise Regulation.

### The following are now pending before the Council.

1. Bill further to amend the Mysore State Life Insurance Regulation, 1907

2. Bill to prevent the adulteration of food stuffs.

3. Bill further to amend the Breach of Contract Act 1859.

# Fifth Annual General Meeting Proceedings.

The Fifth Annual General Meeting of the members of the Mysore Chamber of Commerce was held at the Offices of the Bank of Mysore, Ltd., Bangalore, on Saturday, the 28th May 1921, at 4 p. m., when Mr. B. K. Garudachar presided. About 40 members of the Chamber were present. The Deputy Director of Commerce in Mysore, on invitation, was also kindly present on the occasion.

After the adoption of the Report of the Managing Committee for 1920-21, which was printed and circulated to all present, the Chairman delivered his speech. He next moved the adoption of the report, the audited accounts of the Chamber and the confirmation of the election of members elected during the year. In seconding the motion, Mr. K. Sreenivasa Raghavachar observed that the publication of a "Directory" containing the names of merchants in the State would be a useful innovation. He also observed that the deputation of the Chamber's Secretary to visit important trade centres was a right step, as it would be of material benefit to the Chamber as well as to the Mercantile Community.

## THE CHAIRMAN'S SPEECH.

At the Fifth Annual General Meeting held on Saturday, the 28th May 1921, at 4 p.m., the Chairman said:—

GENTLEMEN,—It is a pleasure to me to once again address you at this, our Fifth Annual meeting, and I hope the Report of the Managing Committee that has just been read out by the Secretary will be considered satisfactory by you. The past year's work shows you the necessity for a Chamber such as ours. The results of the labours of the Managing Committee can be claimed to have been of a practical nature, and by a still more active co-operation on the part of the mercantile community, the influence of the Chamber will increase and its practical efforts be more successful in the State. You have had yearly appeals made to you to give the Chamber your assistance and practical co-operation and, while I gratefully acknowledge that such services have in a measure been received, nevertheless, there is plenty of room for improvement. We must all make this Chamber our direct mouthpiece with the Government and other bodies, and if we will not act and pull together as one united body for the removal of our difficulties, you cannot be surprised if the Chamber's efforts fail to sufficiently influence the authorities. That the Chamber is making good progress is evidenced from the members on the rolls, and its strong financial position. I would, however, appeal for still greater co-operation from the merchants in the Districts, for it is here that trade first experiences its difficulties to reach its principal centres of trade. The Committee are most anxious to help and advise those who, from inexperience or difficulties in the way, find it difficult to secure a free market for their produce; but no one must expect the Chamber to take up personal questions, such as to procure a larger number of rail waggons than he can expect to fall to his allotment. We have obviously to judge matters from all sides, and the personal aspect must be subordinate to that of the general body of the public, but such grievances

which militate against the development of trade and commerce will receive the Chamber's wholehearted support, and it is to gain such redress that I make this appeal to you to bring your difficulties to the Chamber for consideration. Let each one of us undertake to do something for the Chamber every year, even if the act may only result in introducing one active member. You have just heard of our successful interviews with the Postmaster General, the local District Traffic Superintendent, and the members of the Government of India Committee appointed to consider the questions of Railway thefts. To these gentlemen I wish to convey the Chamber's grateful thanks for their patient hearing of our representations, specially to the Postmaster General of Madras for the speedy removal of our grievances in connection with the payment of the proceeds of V. P. Parcels. I would take this opportunity to draw his kind attention to the present irregular and late deliveries of letters, not to mention wrong deliveries. How far the delays are due to the vagaries of the Railway Companies I cannot say, but a little more supervision on the part of the Postal Superiors, as well as a closer examination of the qualifications of applicants for employment, would go some way to give the public that working efficiency which so important a Government department must at all times maintain.

We shall anxiously await the report of the Committee appointed to consider the question of Railway thefts, and I feel confident that nothing but good will result from the very patient and sympathetic manner in which the enquiry has been conducted.

As regards trade during the past year, it is unnecessary for me to mention that the most important event affecting trade has been the collapse of the sterling exchange value of the rupee.

In my speech last year on this vexatious question, I ventured to state that the action of the Government of India in selling Reverse Councils to force the Sterling value of the Rupee from 2-10 to 2 was a wrong one, and it has been more than confirmed by the present chaos that now prevails, The balance of

trade against India has proved too much for the Government to liquidate, and its present decision not to support exchange even at its prewar level, *viz.* sixteen pence with a sterling Reserve of some 35 million pounds specially created for this purpose, is proving as disastrous as its action was in the selling of Reserve Councils when exchange was over [redacted] 2 to the Rupee. To prophesy as to the future of exchange, in the present unsettled state of things all over the world, would be tantamount to folly on my part, but given a good monsoon this year, with all export restrictions removed and better labour conditions all over the world, and Europe furnished with credits for the purchase of the world's raw products, then I see no reason why we should not see an improvement in the Exchange value of the rupee, especially in view of the fact that the Secretary of State for India in London has now no occasion to finance himself through the sale of Council Bills. There are, as far as I can perceive, one or two dark spots in India which must first disappear before we can expect trade to run the even tenor of its ways. The present congestion of unpaid imports at all ports must be paid for, and the uncertain state of conditions in the North-West Frontier must give place to peace and goodwill, and equally so the present unrestful spirit of labour. You, gentlemen, by the high positions you hold, must exercise all your influence and persuasion to bring labour and capital to work together in the true spirit of co-operation.

Monetary conditions all through the year have been stringent, and the present cheapness is more artificial than real. Banks are not willing lenders, except against the most liquid securities. The Government of India and our own Government, will before long take up all the available surplus funds, and we shall then return to renewed stringency in the autumn. The question of the note currency in the State is not altogether one which we can regard with satisfaction. With the return of the rupee from its hidden places there has recently been a strong demand for notes which cannot

be met, and I hope the new Committee will seriously consider the matter and press our Government to call for an adequate supply of notes being always made available locally in exchange for rupees, or vice versa. We periodically have a famine of silver coins or a dearth of notes, and until these drawbacks are remedied it is impossible for the people to have that complete faith in the convertibility of the currency notes which is so desirable in the interest of free trade.

The volume of trade for the past 12 months shows :—

**Piece-goods.**—The tone of the piece-goods market was generally healthy and normal; and though the volume of trade was comparatively much less than in the previous year, the value of goods dealt with shows an increase, owing to the then prevailing higher prices.

The following are the figures for the Bangalore City as furnished by the Municipality, for the year ending 31st December 1920.

The value of all imports into Bangalore City has risen from Rs. 113,12,320 in 1919 to Rs, 123,57,184 in the past year.

The amount of Octroi received on the same was Rs.1,93,081-11-1 in 1920 as against Rs.1,76,755 in 1919. The amount of Octroi received in 1917 was Rs.94,583 as against Rs,79,421 in 1916.

As was anticipated by the Chamber 3 years ago, Bangalore City has now become an important centre of trade for Southern India, with increased imports in each successive year. Our markets are somewhat overstocked, but goods are in strong hands. I would, however, point out the evils resulting from an attempt to hold up goods purchased at higher prices than those prevailing at present. If holders will not reduce prices they can only expect our buyers to go to other markets, where goods are saleable at lower rates. Our merchants must look more to their annual turnover than to securing a profit on every bale of cloth.

The customary review of the Railway Borne Trade within the State for the year 1920, for the principal commodities, has not yet been

received by the Chamber from the Deputy Director of Commerce and Statistics in Mysore. Hence, I can give the average prices of each commodity only.

Rice.—The average price for the year is Rs.26-4-4 as against Rs 27-1-0 in 1919 per palla showing a fall of 3 per cent,

Ragi—The average price for the year is Rs. 84-10-6 as against Rs-74 in 1919 showing an increase of 14 per cent.

Paddy—The average price for the year is Rs. 68-4-7 as against Rs, 73 in 1919 showing a fall of 9 per cent,

Sugar (unrefined).—The average price for the year is Rs. 5-11-9 as against Rs. 3-6-0 showing an increase of about 70 per cent.

Jaggery.—The average price for the year is Rs. 5 6-11 as against Rs. 2-14-0 in 1919 showing an increase of 89 per cent.

Cotton Seed.—The average price for the year is Rs, 1-7-2 as against Rs. 1-8-0 in 1919 showing a fall of 4 per cent.

Castor Seed.—The average price for the year is Rs.43-15-0 as against Rs.52-8-0 in 1919, showing a decrease of 16 per cent.

Til Seed —The average price for the year is Rs, 77—4—6 as against Rs. 71 in 1919 showing an increase of 8½ per cent.

During the year 1920, licenses were issued for the import of 13,400 tons of Burma rice, and the average price was Rs. 17-4 per bag of 225 lbs, nett of Burma whole rice big mills special. The undermentioned commodities are controlled, and their export outside the State is prohibited by Government. 1. Paddy, 2 Rice, 3 Ragi, 4 Jola, 5, Navene 6 Horsegram, 7 Boiled Rice, Avalakki or beaten Rice, Huriyavalu, Puri, Mandaralu (Puffed or Poeed Rice, 8 Flour prepared fromrice, ragi and jola.

The Government final forecasts of the paddy and ragi crops show that during the year under review, the total area under paddy has been 680,385 acres as against 772,753 acres (revised figure) or nearly 11'55 per cent less than the total area in 1919-20. The decrease has occurred

in all the districts except Shimoga. More than one-third of this contraction in area, *i.e*, 33,484 acres out of 92,368 acres has occurred in the District of Hassan alone. As a necessary consequence of this large decrease in the area, the outturn has gone down 214, 125 tons in 1919-20 to 175,333 tons. The out-turn this year is about 19 per cent less than the actual out-turn during the preceding year and 36 per cent less than the standard outturn.

The area under ragi has decreased from 2,238,228 acres during 1919-20 to 2,204,664 acres. For a fall of 11½ per cent in the area, the out-turn has fallen by 17½ per cent, being only 5,617,774 pallas against 6,790,846 in 1919-20. The shrinkage in the Tumkur District alone was as much as 42,000 acres.

The contraction in the acreage under paddy and ragi the staple food crops in the State is noticeably large. It is in the main due to the influence of unfavourable seasonal conditions. Government consider, however, that efforts should be made as far as possible to counteract their effects by the most economical utilization of available irrigational facilities, improved selection of seed and similar measures. The question of increasing the food production of the State is also under investigation by the Government.

The price of oil seeds went up in the early part of 1920, and suddenly decreased later to fifty per cent of the value. The reasons attributed are the lack of demand from foreign countries, which are the greatest consumers of oilseeds, and the dislocation of Tannery work. Our merchants have sustained losses to a great extent. Even to-day the prospects of the oil seeds market is very uncertain.

This year for the first time, your Committee have had to deal with questions concerning the collection of Income tax in the State, an unwelcome stranger but one who I fear will not be long before he gains the prominence of his brother in British India. I think it will be found that the introduction of such a tax will prove to be for our good, if it will only result in the people taking a greater interest in the affairs of the State, and not being afraid to criticise

extravagance and inefficient Government administration. It is said that you have got to twist the tail of the British Lion to make him roar, and I think the touching of our pockets will equally create an outcry if the proceeds of the tax are wasted on objects of no real benefit to the people. Our worthy Dewan, in his address to the Representative Assembly last October, mentioned that the Income tax Department had received instructions to render all reasonable help in the preparations of returns of income, but I venture to think it would be equally profitable if the officers charged with the collection of the tax show sympathy and moderation in their dealings and demands, and which would greatly ease their labours and make a distasteful levy a pleasant evil. I have heard of some assessments which only one living in quarters not far distant from this Chamber could be thought capable of making, and there is some talk of merchants giving up their business premises in the City and returning to the Cantonment, where the levy of the tax is considered less harsh. It is therefore most desirable that every latitude and allowance should be made by the officers of the Department in the realization of the tax, and by so acting I do not think they will run any risk of losing their appointments.

Before I bring my address to a close, it is my unpleasant duty to refer to one or two subjects of supreme importance to the members of this Chamber, and the trading interests of the State. I will not offer any words of apology for introducing these subjects, about which I know there is so much of bitter feeling in the mind of every merchant in this State, but sincerely hope that these words, which merely echo the prevailing feeling, may at least now reach the ears of our Government, and that suitable steps may be promptly adopted for remedying the evils.

First and foremost must be placed the inordinate, I may say almost notorious delay in the disposal of commercial litigation by our judicial tribunals. I am aware of the stock answer that will be given to this complaint, that such delay is not peculiar to this State, but common to all countries. But, gentlemen, that

"delay is common" does not make our grievance less bitter, rather more, especially when, as must be readily admitted, the quantity of real commercial litigation in our State is, by the very conditions of trade here, comparatively trifling, and its nature generally less complicated and mostly petty, as compared with litigation in more advanced countries. Reform in the practical handling of cases by our judges from start to finish, from service of notice on the defendant to securing the arrest of the judgment debtor or bringing his assets to sale, is absolutely necessary for the encouragement of honest trade in the State. I cannot, indeed, see why substituted service is not more frequently resorted to in the case of an evading defendant or judgment debtor instead of the plaintiff or decree holder being entirely left, as at present, at the mercy of that most notorious limb of the law—the Amin. Why, again, the summary procedure, with reference to claims on promissory notes and bills of exchange sanctioned by Government on our motion in 1919, has not found application in our courts and in practice has borne so little fruit so far, is a matter which requires looking into. The frequent applications for adjournment is another evil which could be mitigated, either by firm action on the part of the presiding Judge or infliction of the heavy cost of the day's proceedings on the party asking for the adjournment. Then, again, is it not possible to reform procedure of courts in such a manner as to secure the arrest of a judgment debtor within the jurisdiction of different Courts in the State by process of one Court? In these days of quick transit nothing is easier than for a recalcitrant judgment debtor, say in Mysore town, to keep moving between Mysore, Srirangapatam and Nanjangud, and laugh at the vain efforts of his creditor to bring him to book before the Court. Is it not possible for the Government to institute a confidential section in each court, under the supervision of a responsible officer—not one like the present official, who has nothing to lose but everything to gain by delays— to secure that the information regarding attachment and arrest does not leak out to the judgment debtor in advance of the issue of process, as is notori-

rously common at present? I have detailed only a few of the crying evils relating to the procedure in Civil Courts, whose reformation is urgently called for, if the present abnormal delay, resulting naturally in heavy cost of commercial litigation, should be avoided. If the Government consider that the constitution of our Civil Courts is such that the special procedure for the prompt disposal of suits above suggested cannot be adopted, I think the Chamber should urge the Government to institute a special class of commercial courts for remedying the present evil, the magnitude of which and its paralysing effects on honest dealings cannot be exaggerated.

While on this subject, I should like to refer to one other rather important point. The rate of interest allowed by Courts on decree debts, which is generally 6 per cent, is too low in these times when compared with the present market rate. I know of several cases in which the debtor keeps back the debt, and forces the creditor to go to Court, feeling confident of having to pay a smaller interest after decree, and putting off the payment of same for years more. A circular from the Chief Court inviting the attention of Judges to the necessity of awarding interest on decree amount, not lower than the prevailing market rate, would perhaps conduce to mitigate the heavy loss to which creditors are often now subjected.

One more word and I will be done. I cannot say who is responsible for it, but complaints about the difficulty of readily securing waggons—more so on State Railways—for transport of goods continue to be as frequent as ever. The question of supplying a sufficient number of waggons to meet trade demand is no doubt engaging the attention of the Railway Department, but I would like to suggest, in the interests of both the Department and the public, the introduction of the proper maintenance, as is done by other Railway Companies, of a register of applications for waggons—one register to be maintained in the Goods Transport Department at each Railway Station, and a copy of the same in the Office of the District Traffic Superintendent, for purpose of scrutiny. Merchants may also be instructed to send ap-

plications in duplicate, one to the Goods Inspector at the goods-shed, and another direct to the District Traffic Superintendent simultaneously. This procedure may perhaps introduce a check on the vagaries of the lower subordinates of the Department, but at all events, will enable the Department to show to the complaining public that applications from merchants are dealt with equitably and in the order of receipts, and that no preferential treatment is accorded to any merchant for shady reasons. The real remedy is, however, in the hands of our merchants themselves. If they would only combine for a time to refrain from gratifying the demands of those having the disposal of waggons in their hands, and not consign a single maund unless waggons were supplied without payment, then perhaps the absence of traffic will at least attract the attention of the District Traffic Superintendent, and suitable action taken against those in charge of the goods department. It is also desirable that the District Traffic Superintendent should keep in friendly touch with merchants and learn from them of their difficulties. He should also institute measures of a confidential nature to watch those in charge of the goods departments, and be held responsible by Government for the malpractices of his subordinates. We cannot expect much improvement in this direction if those holding high offices are not held responsible for the glaring evils in their own department, and one or two severe lessons on the part of Government to those failing in this duty cannot but have the most salutary effects. While on this railway question, I would also like to draw the attention of Government to the loss of revenue they suffer through insufficient attention at the principal railway stations to applicants for tickets. There should be more than one clerk to attend to the issue of tickets to third-class pasengers, and the checking staff more critically watched. A Superior Officer might be deputed to inspect tickets on the line, and the compartments of guards inspected, to see that no one is harbouring himself there. In one word, we want a thorough wakening up of our railway officials, and to impress upon them that the Railways are run in the interest of the

Government and public, and not as an additional source of profit to those in charge.

After the close of the speech the Chairman thanked Mr. W. C. Rose for his wholehearted support in the conduct of the affairs of the Chamber in past years, and hoped the members would secure his services for the future on the Managing Committee.

The election of the Chairman and Vice-Chairman was next taken up. Messrs. K. Sreenivasaraghavachar and T. M. S. Subramaniyam were appointed as tellers. Messrs B. K. Garudachar and M Hariyanna were elected as Chairman and Vice-Chairman respectively.

The next item on the Agenda was the election of the members of the Managing Committee for 1921-22. The following gentlemen were elected to the Managing Committee for 1921-22.

Messrs. B. K. Garudachar, Chairman; M. Hariyanna, Vice-Chairman; W. C. Rose, M. Ramachandra Rao Scindia, M. V. Subbiah, P. M. Basappa, D. Adeppa, K. G. Pashupathy Iyer, Devarao Shivaram and H. Fraser, as representing the M. & S. M. Railway Company, Ltd.

Messrs M. Ramachandra Rao Scindia and Tubagere Nanjappa were elected as the Chamber's representatives to the Mysore Representative Assembly for the year 1921-22.

The Chairman proposed that Mr. T. M. S. Subramaniyam be appointed Auditor for 1921-22 on a fee of Rs100 per annum, and this was unanimously carried.

With a vote of thanks to the Chairman, the meeting terminated at 6 p.m.

2/14

G. R. S. VI—G/32]

SUBJECT Delay in the disposal of the Communal litigation in the State

Diary No. of letter replied to .....

GENERAL AND REVENUE SECRETARIAT

( )

, the 191 .

Date of issue 5/8

Signed by M Prin

Section Courts

File No.

Serial No. 40

No. J 572(1)

To

The Registrar
Chief Court.

Sir

I am directed to forward herewith for favour of the opinion of the Judges of Such further action by him as may be deemed necessary, an extract from the Speech of the Chairman of the Mysore Chamber of Commerce,

over.

2/14

9/

Bangalore, delivered at the
Annual Meeting held on
28/5/1921, regarding the
delay in the disposal
of the Commercial litigation
by the Civil Courts
in the State.

Shame to
M/r
D. 18
for Secy to Govt
Rev Dept

OD Mc
24/7/24

*List of enclosures.*

*Copied by*

*Examined by*

W D66—GPB—60,000—15-11-16

CS 4-21-41

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26 Nov 7/40.

The Chief Secretary
Government of Mysore
Bangalore.

JUDICIAL AND REVENUE SECRET
7 OCT 1921
JUDICIAL BRANCH.

Petition of the undersigned Merchants of Bangalore.

Sheweth

That the undersigned are merchants engaged in various trades in the City of Bangalore.

They have long suffered great loss of time and money owing to the inordinate delay that occurs in Mysore Courts even in desposing of commercial causes.

The volume of trade in Bangalore has of late grown enormously and therefore your petitioners pray that the practice followed in Bombay and other trading centres of marking off cases relating to trade and commerce as - commercial causes and giving them preference over even part-heard cases which are not commercial may be introduced in the Courts of Bangalore at least.

At present evem suits or Pro-notes for delivery of goods and the like take two and three years and sometimes even more, thereby causing much worry and loss to the undersigned.

For which act of kindness your Petitioners shall ever pray.

Sd Seth Gopaldas Deralaram
(Sd) Seth Seearam Lunidas
Shriram
Abdul Khalak
S. Krishnaiyengar
K. S. Krishna Iyer

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Dl, RBNo 103 Since 15

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24 MAR 1922

Chief Court of Mysore,
Bangalore, 21st March 1922.

From

G. Srinivasa Iyer, Esq., B.A., M.L.,
Registrar of the Chief Court of Mysore,
B a n g a l o r e.

To

S. Hiriyannaiya, Esq., M.A., B.L.,
General Secretary to the Government of
His Highness the Maharaja of Mysore,
B a n g a l o r e.

S i r,

Adverting to your letter No.J.572/Sts. dated 5th August 1921 forwarding an extract from the speech of the Chairman of the Mysore Chamber of Commerce, Bangalore, delivered at the Annual Meeting held on 28th May 1921, regarding the delay in the disposals of the commercial litigation by the civil courts in the State, I am directed to forward herewith the opinions of the Judges of the Chief Court on the several suggestions contained in the said extract, together with a copy of letter No.540 dated 9th November 1921 (with that of its enclosure) from the Subordinate Judge, Bangalore.

I have the honor to be,
S i r,
Your most obedient servant,

G Srinivasa Iyer

R E G I S T R A R.

TMN/

Encl to diary No. 3646/9 13

THE OPINIONS OF THE JUDGES OF THE CHIEF COURT.

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THE CHIEF JUDGE :-

" It seems to me that the correspondence shows that what the Chamber of Commerce want is not so much a commercial court to deal with questions of law arising under the Law merchant but rather a rapid debt collecting agency, and that I have no doubt is very desirable.

Commercial courts are evidently very valuable in great ports, such as London, Liverpool and Bombay, for when the trade is great and consists very largely of imports into and exports out of the country, complicated questions of law arising out of the carriage of goods by sea very often arise. But in Mysore where we have no port, not even a river used for navigation, the most difficult and important questions of commercial law so far as it is distinct from the ordinary law do not arise with sufficient frequency to justify the erection of a special court for the purpose of deciding them.

What the Chamber of Commerce expects from a commercial court is rapid disposal. It is not the lack of expert knowledge of commercial law in the Judges of which they complain, but rather the lack of expedition in the settlement of commercial claims, and delay and uncertainty in the execution of decrees.

For the expeditious settlement of claims I believe that what is wanted is not a special court, but an additional general court, both in Bangalore and Mysore. We have already pointed this out to the --

Government

Government and if the Chamber of Commerce can shew as they possibly can that trade is hindered seriously by the absence of courts it may be that the importance of the matter will be made clearly apparent to the Government. I do not believe that by a mere re-distribution of work we can reduce delay materially. We may favour a particular class of case at the start but the other classes are not less important, and cannot stand protracted delay though delay to some extent may in their case be less fatal than in the favoured class.

If we cannot have an additional general court we may establish a small cause court to try cases up to R .500/- in value arising in the Bangalore District. The Chamber believe that the advantages will more than counterbalance the loss of the appeal right. Of that I am not sure, but I dare say they are right. Merely to concentrate the present small causes in one court would hardly meet the case though it might to some extent reduce delays in disposal. The result, if the money limit of jurisdiction be not increased but a Small Cause Court under a Subordinate Judge be installed --- would be to bring a number of suits within the small cause court's jurisdiction which have now to be tried as regular suits in the "unsiffs" courts, i.e., small --- causes between 100 and 300 or 50 and 300 as the case may be. So far as Bangalore is concerned there will be no objection to this on the ground of inconveniences to parties because even as it is all the small causes in the Bangalore District have to come for trial to Bangalore or will have so to come when the Dodballapur court is moved into Bangalore But it will be different in Mysore, and if what the Chamber want is a small cause court for the whole Bangalore Division, and the

the whole Mysore Division, there will be a good deal of inconvenience to persons having cases of small value.

But these and other expedients for redistributing work and reducing it by transforming some suits from ordinary suits to small causes, whether by increasing the small cause courts' pecuniary jurisdiction or by revising the schedule to the Regulation so as to include other classes of cases in it, will not I think go very far to expedite disposals in commercial and ~~or~~ other cases.

What is really required is an increase in the number of courts.

Some of the Chairman's other suggestions are (1) that substituted service be more frequently resorted to. In this matter we are not to help plaintiffs to get their cases heard ex parte without good cause. If recourse is allowed too readily to substituted service, there is the danger that the plaintiff will not take the trouble to search out the true address of the defendant: the courts below do not admit and I am not prepared to assert that there is anywhere too great strictness in applying the rule and I do not think the Chief Court would be justified in pressing on the courts below the advisability of increased laxity

(2) that recourse should be had more often to the procedure prescribed by Order XXXVII, Civil Procedure Code.

It is not for the courts but for the plaintiff to decide whether that order is to be applied. If courts

courts refuse to exercise their jurisdiction we can revise their proceedings but I don't know of any cases so far. The limitation period prescribed by Article 5 of the Limitation Regulation may be increased to one year as suggested by the Manager, Mysore Bank: it is said and it may be true that the period now allowed is too short and the shortness deters creditors from making use of the summary procedure. This will necessitate an amendment of the law.

(3) That adjournments should not be granted so frequently as they are by the courts.

We impress upon courts ad nauseam the necessity for granting adjournments only on good grounds and we require the courts to state in their order-sheets the reasons for adjourning cases: I do not know that defendants are worse offenders in regard to applications than plaintiffs, but in any case this is not a matter which can be regulated by any hard and fast rule: it must depend on the work of the court and the reasons advanced for the adjournment.

Something may be achieved by making the adjournment of cases expensive to the party applying for it, and courts do give adjournment costs: if those are insufficient in some cases, it is really for the party entitled to receive them to press for adequate compensation, and rules can hardly be laid down by the Chief Court.

(4) Reform of procedure for arrest.

As to execution generally I doubt if much can be done: there does not seem to be much to be gained by

by following a judgment-debtor about with a warrant of arrest beyond the territorial jurisdiction of the court unless he is known to be carrying property about with him, or has means to pay but will not pay. Arrest is only meant to be a means of reaching property: it is not a satisfaction of the claim or a penalty for getting into debt. As used in England it is rather in the nature of a penalty for contempt of court; a debtor refusing to obey the decree when he can pay. It ought not to be used to compel a judgment debtor to part with property which the decree holder is precluded by Section 60 of the Code from attaching even when he can reach it: but it can be used to make the judgment-debtor disgorge property which he has concealed or put outside the jurisdiction so that the decree-holder cannot reach it. It might no doubt be possible to provide a rule for following a judgment-debtor outside the jurisdiction in cases where there is evidence (affidavit or other) that he has property which cannot be reached by attachment in the jurisdiction and when delay in issuing the warrant would be fatal so that transferring the decree for execution would result in loss to the decree-holder. Section 46 of the Code provides for simultaneous attachments by different courts, but there is no provision for simultaneous warrants of arrest to different jurisdictions. Simultaneous warrants would have this result that to be effective the decree-holder would have to keep an agent in each jurisdiction to be on the ø look-out for the debtor, or would have to 'shadow' him, follow him from place to place till his warrant is ready. I believe that any rule of the kind

kind I have suggested can be promulgated only by the legislature; I do not think it is open to the Rule Committee to provide for execution outside the jurisdiction of the court which is executing the decree; the provision as to attachments is found in Section 46 of the Code and not in the schedule, and I think the matter is one which should be dealt with by the legislature if the Government think that it is prima facie desirable to make any change.

For the rest I think that our process establishments require expansion and I believe that a good deal of delay is due to the time which has to elapse both in suits and in execution cases between the demand for process and its issue for service or execution and some of it at least is caused by the fact that the Nazir has not enough men and must conserve processes till he gets a batch together. I am inclined to agree with the suggestions to pay to some extent by results, but I see that on aformer occasion most of the lower courts were against it and we did not accept the proposal. It would be possible to add something to the fee as proposed by the Bangalore Subordinate Judge who is strongly in favour of this scheme. That at least would stimulate the process servers, and to require a party or decree-holder to pay a little extra for a personal service might be useful if a practical plan can be worked out: this will have attention.

(5) The suggestion to have a 'confidential section' in each court to secure the information as to arrest

arrest and attachment does not leak out does net seem easy to carry out. Who is to be the responsible official "not like the present official" (the court Nazir I suppose or the process Nazir or both) is not clear, but the proposed Chief Clerk might be useful in that matter: but rapidity in issue and execution is better than attempts to secure secrecy, and it is possible that rapidity might be attained in some measure by a system of handing the warrant to the decree-holder's pleader or himself or a recognized agent. He would have to be accompanied by an amin or process server and it would probably be necessary to charge a speedal fee in such cases or the process establishment would have to be largely increased in some courts. Emergency fees are even now collected in some cases, and if decree-holders are ready to spend a little more for rapidity something may be done. I am rather inclined to think that the courts (and I do not except the Chief Court when dealing with appeals) are not sufficiently strict in dealing with the process establishment and are rather too ready to accept excuses for neglect of duty. A little"frightfulness" would possibly do good: heavy punishments both for delays in issuing and neglect in executing processes should be the rule rather than the exception. But the courts have so much work that the Judge is naturally disinclined and indeed unable to make an investigation in all cases of apparent delay, and ready to accept excuses which on examination might be found insufficient. Here again the Chief Clerk would come as an officer of authority who could hold enquiries and deal out punishments.

The matter has been ordered to be brought to the notice of the present an alleged financial irregularity
28/10/13

58

(6) It is suggested that the rate of court interest be increased. Section 34 of the Code of Civil Procedure provides for such rate as the court deems reasonable and the Chairman suggests that not less than the prevailing market rate be awarded. There is no doubt that it may pay a judgment debtor in some cases to withhold payment of the decree amount if he can get better interest by using his money otherwise, but the provisions for execution by arrest and attachment ought to stop that to a great extent. It might be possible to have an ascending scale of interest in decrees, e.g., no interest if paid within three months, 6 per cent if not paid within three but paid within six months, 9 per cent if paid thereafter but within a year. It might suit creditors to wait in some cases for the higher interest, but equally it might stimulate debtors to pay up as quickly as possible. It is possible that Section 34 would require amendment to enable progressive rate of interest to be charged, but there is no court rate established by law, and the present rate of 6 per cent is I think adopted all over India. Probably the best way to get it increased in Mysore if creditors find that desirable would be for a plaintiff to ask for a higher rate in some cases: it is not right for the Chief Court to lay down what rates are to be 'deemed reasonable' by the decreeing courts, at any rate on the information we now have".

RAJA DHARMA PRAVINA

MR. JUSTICE K. S. CHANDRASEKHARA AIYAR:--

"I agree with the Chief Judge's observations

which

which afford a sufficient answer to the somewhat crude and querulous complaints to which the Chairman of the Mysore Chamber of Commerce has given expression.

Delays in the trial of suits and difficulties in the execution of decrees, are not confined to Mysore courts or to commercial litigation. In so far as these evils are of a general character, they can only be effectively remedied by increasing the number of courts along with an improvement in the pay and prospects of presiding officers and by adding materially to the strength of the process establishments as well as to the legitimate emoluments of the members of such establishments. Minor reforms in little details of every day procedure are occasionally possible, and their possibility is of course always kept in view; but they cannot go far, neither can they make up for the lack of an adequate judicial and process staff. It is here that the direct and obvious remedy lies for patent evils; and the question of additional cost since it touches the litigant rather than the general tax-payer, cannot be insuperable.

For the rest I have nothing to add to Sir Leslie Miller's remarks".

MR. JUSTICE R. B. PLUMER :-

" I have nothing to add. As Mr. K. S. Chandrasekhara Aiyar justly remarks, the Chairman's

Chairman's criticisms are crude and querulous and have reference to patent evils well known to us and to all Judicial Officers. They are being remedied as best they can; but without increase of courts, establishments and pay the can nevery be cured".

REGISTRAR

Letter No.540/E.2 dated 9/10th November 1921 from the Subordinate Judge, Bangalore to the District Judge, Banlore.

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With reference to your No.1128-37/C.105 dated 3rd September 1921, I have the honour to submit herewith the statistical statement called for.

1. The statement shows that the average duration of both contested and uncontested cases has increased very considerably since 1918. This increase may be due to two causes; first by the increase in the institutions of suits and secondly the difficulty of finding out the representatives of defendants or debtors who fell victims to the Influenza epedemic of 1918 and to get proper persons willing to act as guardians to the minor defendants. In the case of contested cases the disposal of old cases which have accumulated for years has added considerably to the average duration.

2. The statistics are also a little misleading. A great majority of uncontested cases are disposed of fairly early in about 6 weeks. A small percentage of cases in which process fee is paid late by the parties, the address of the defendant is unknown and consequently the suit is allowed to lie over, the defendants who live outside the state are not easily served and the guardians willing to act for Minors are not found, contribute to the high average duration. In the case of contested cases in addition to the above and other causes, the method of calculating average duration in cases refiled years after the exparte decree was passed, from the date of the original institution, add materially to it. I venture to submit in this connection that the existing rule may be modified in this particular

as

as the public draw adverse inferences from misleading statistics.

3. I do not think any court would delay the disposal of uncontested suits or contested suit on bonds, pro-notes and accounts in which the defences are generally simple and give little or no trouble to the Judge. But even some of these contested cases are at times delayed - and on which public complaints are generally based - owing to the obstructive tactics adopted by some of the parties whose sole object is to gain time and put off the evil day.

4. Though I do not think that things are so bad as the public complaint would make it appear, nevertheless it cannot be denied that in the city of Bangalore there are instances of delays and that there is scope for improvement. An examination of the causes will show that the parties and their counsel contribute to the delay far more than the court or its staff.

5. In the city of Bangalore particularly, owing to the large number of courts in the City and Cantonment, one counsel or the other is not available when contested cases are called. On account of this few cases are disposed of and the quantity of work turned out is not equal to the time spent in court. The court must refuse to accept the plea that the counsel is engaged elsewhere. At the same time a rule may be made allowing in all cases two fees one for the senior and half of it to the junior. There will be less excuse for the plea of engagement elsewhere when two fees are allowed. This system is not unknown elsewhere ~~xxxx~~ and may at least for the present be extended to the Cities of Mysore and Bangalore.

~~When Justice Flurer was in Shimoga he suggested~~ 6. When

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6 When contested cases are adjourned to fairly long dates, it is found on the adjourned date, the parties either failed to pay process or paid them very late. In some cases witness lists are filed either with insufficient or incorrect address or insufficient batta. In all such cases where the parties have not been diligent, adjournmentsshould be firmly refused to make them realize their responsibilities even though it may work as a hardship in a few cases in the beginning. When the circumstances in the particular cases necessitate an adjournment in spite of the laches, adjournment costs are always ordered. At any rate that is what I have been generally doing. But I have found that the present scale of adjournment costs is not sufficient to act as a deterrent and I would submit the desirability of increasing the present scale or leaving the amount to be ordered, to the discretion of the Judges.

7 ~~8.~~ Another potent cause for the delays in disposals and realization of decree debts is the non-service of processes on the parties and witnesses. The whole blame is generally laid at the door of the process staff. As already observed the non-payment of process fee in time, the incorrect or insufficient address ~~xx~~ given of the defendants or witnesses and the deliberate obstructive tactics adopted by the parties contribute in no small degree to the delay. Quarterly statistics will show that the percentage of satisfactory service is very high in almost all the courts. In very many cases in which decree holders apply for arrest or attachment of moveables, neither arrest nor attachment takes place as they themselves certify either time ~~either time~~ has been granted or goods or debtor could not be found. A large number of Execution cases go mostly for the laches of the decree-holders. Despite all these things the complaint is all against the process staff. It cannot however be said that its work is wholly satisfactory or is not capable of improvement.

8. When Justice Plumer was in Shimoga he suggested

a system of checking the work of the process staff by making entries of all laches on the part of each server in a black book. I worked it in several places and found some improvement. Apart from it while I was in Mysore, about 5 or 6 years ago I suggested a system of payment for each service personally effected. My impression is that opinions were invited on it and it fell through owing to opposition. I would again submit it for consideration and experimental trial in Bangalore.

9. At present owing to low pay and few prospects of promotion the process staff is not attracting a proper type of men. Even if the present pay is ~~xxx~~ increased by a few rupees it would not materially mend matters. I would suggest that the present scale of pay, excluding the allowance recently sanctioned, may be continued and each server and Amin rewarded by a payment of 8 annas and one rupee for each service of summons personally on the defendants and witnesses and arrest ~~xx~~ and attachment effected respectively by levying an extra process fee from the parties. By this method each server and Amin would be enabled to earn on the average about 15 to 20 rupees per month in addition to his pay. The reward will be given only when personal service or attachment or arrest has been effected and when the plaintiff or defendant endorses that it is not necessary to execute the process for any reason of his own. No other excuse however valid will be accepted. This does not involve extra cost to Government as the parties are made to bear it. At present parties pay process several times and the total amount paid on the average comes to nearly Rs.2/- or even more. A levy of an extra 8 annas or one rupee would not be much ~~if~~ as the party would not be called upon to pay process more than once. When once the process is paid the same will be issued more than once if necessary and till it is served no reward will be earned. In Bengal for every service of summons on defendant a fee of Re.1/- is levied and

not As.8 as in Mysore. This would not involve extra cost to the parties as they pay Re.1/- for summons and notice and Rs.2/- for warrant only once instead of annas 8 and Re.1/- a number of times.

9a. The president of the Chamber of Commerce Mr. W. C. Rose met me in court by appointment and we had a long discussion on all these points. He agreed with my above proposal and has, in his letter of 8th instant herein enclosed, urged it for adoption. He has made other suggestions both in his letter to me and in his speech the extract of which is sent with your docket.

10. Whenever the parties apply with an affidavit for substituted service, I believe all courts invariably grant it. Often it is ordered by the court itself without any such application.

11. When parties apply for adjournments and when the court considers the refusal too great a punishment, adjournment costs are always ordered. I have suggested in para 6 above the increase in the scale of adjournment costs.

12. The courts cannot do anything if the parties, with whom it is optional, do not adopt the summary procedure on negotiable instruments. It is always open to them to adopt it but they fight shy of it on account of the 6 months limitation period. Mr. Rose in his letter to me has suggested legislation raising the period of limitation to one year. As the defendant cannot defend without leave of court, one year may be too long a period. Mr. Rose told me that parties wanted time for payment and he had to give it to recover money. This question has to be considered in the legislative branch.

13. I

13. I see no objection to parties employing a special process server to serve warrants even outside the jurisdiction of the court issuing it and within the State. But it cannot be done by the regular staff as a rule as it would entail extra labour and increase the radius of action.

14. Under the existing rules, officials are prohibited from giving out information regarding the issue of warrants etc. If instances are brought to notice the erring official can be punished. Even a confidential section in court would not mend matters. The execution clerk, process writer, despatching clerk, pending clerk and process staff would all be in possession of the information. One or two men cannot do the work of all of them. Apart from court officials and servers, parties get information from lawyers' clerks and law touts who daily sit in court and watch the proceedings without being detected. It often happens the decree holder before applying for arrest would have threatened the debtor with coercive process and the latter will have been fore-warned. Under such circumstances a separate confidential section may not remedy the mischief and is also not practicable.

15. I do not think it advisable to keep a separate list of commercial cases and treat them differently. It is enough if the judges are told to give their particular attention to them. Too great an insistence on this may lead to other cases already delayed being delayed even more.

16. To remove the present congestion of work in the two Munsiffs' courts in Bangalore and to expedite the disposal of commercial suits Mr. W.C. Rose has proposed the establishment of one additional Munsiff's court and a Small Cause court. Apart from the cost involved, the establishment of two such courts will

will leave the present Sub Court without enough work unless appeals are transferred. The bulk of the work of this court is of a small cause nature. If the small cause jurisdiction of the present Sub Court is raised to 500/- and even suits between 1 to 50 transferred to it, the work would become too heavy. It would be possible to do it if all the 200 original suits in this court could be taken up by the District court. I do not know the state of the file in that court. I think it would be possible to remove the congestion in my court in about a year's time. In that case the establishment of an additional Munsiff's court to deal with the arrears in the two Munsiffs' Courts would meet the situation for the present.

17. I request that the letter of Mr. Rose which is subjoined to this may be submitted to the Chief Court in original.

18. As regards the rate of interest allowed by courts after decree, it seems to me, that having regard to the present times and the market rate that has been current for some time past, it may be raised to 9 per cent.

Sd/- S. Venkatakrishnaiya,
Subordinate Judge.

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REGISTRAR.

Letter dated 7/8th November 1921 from the Manager. Bank of Mysore Ltd., Bangalore City, to the Subordinate Judge, Bangalore.

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In the course of our personal interview on 2-11-1921 your Honour invited suggestion from me with a view to remedy the existing defects in certain branches or departments of the judiciary, so as to conduce to a speedier disposal of suits, especially, suits of a commercial nature.

I have the honour to make the following suggestions:--

1. With a view to enable parties to more frequently resort to the summary procedure prescribed in order XXXVII of the Civil Procedure Code, the present period of limitation, viz., 6 months, applicable to suits filed under this order may be extended with advantage to one year by an amendment of Article 5 of the Mysore Limitation Regulation. In case of default to pay, i.e., dishonour of the Negotiable Instruments by persons liable to pay, the present period of six months may be practically too short a period for the creditors to rush into courts with suits on such instruments to have the benefit of the summary procedure under Order XXXVII, Civil Procedure Code. In order that the defaulters may have sufficient time to be enabled to pay up the amount and prevent the creditors from going

to Court to have the benefit of the summary procedure without giving such defaulters sufficient time to re-pay, Articles 5 of the I Schedule of the Mysore Limitation Regulation may be amended so as to extend the period to one year instead of six months.

The establishment of a separate small cause court in the Cities of Bangalore and Mysore (at any rate one in Bangalore, if not in Mysore) presided over by a competent and experienced judge of higher grade with pecuniary jurisdiction up-to Rs.500/- will tend considerably towards a speedier disposal of cases in general in all the Courts now. At present, e.g., in Bangalore, the Munsiffs and the Sub Judge are invested with small cause court jurisdiction and there is no separate small cause court. As the same judge has to dispose off both Original and Small Cause suits every day, naturally there is delay in the disposal of either kind of suit than it would be the case if he had to deal with only original suits. Hence the establishment of separate small cause Court for the present in Bangalore with pecuniary jurisdiction up-toRs.500/- and presided over by a competen and experienced Judge would certainly conduce to a speedier disposal of all cases in general and therefore suits on Negotiable Instruments share this advantage of speedier disposal with other kinds of suits. Further, the reason for the congestion as your Honour stated is in a measure due

to

to laxity on the part of advocates not having their cases ready for trial on the date fixed by the Court, and if such cases were strongly dealt with by the Court and the party asking for adjournment be made to pay substantial costs, I venture to think that one unsatisfactory cause for delays will be removed.

3. As at present there appears to be a large congestion of work in the I and II Munsiffs Courts, in Bangalore (especially in the former) the appointment of an Additional Munsiff temporarily for a year or so will go a great way in disposing of the arrears and also relieving the congestion.

4. Lastly, there is really a very great and urgent need for improvement in the Process Servers' department. Unless satisfactory arrangements are made in the matter of remuneration to the Process Servers and Amins, so as to "keep the wolf from their doors," it is impossible to check the corruption that is rampant among them. Taking into consideration the low pay that is now paid to them, and the fact that no railway fare is paid to them while they travel, and that they have to be moving about constantly amidst turbulent people, it is not a matter of surprise at all that they fall a prey to the temptations and baits offered to them by the defendants and judgment debtors. It would indeed be a very desirable thing if instead of the present paltry and fixed pay to the Amins, a scale of fees be fixed, according to which each Amin or process server

may

may be paid at a particular rate for each personal service to thedefendant or judgment debtor. A reasonable scale would be as follows:--

1. For each warrant personally executed Rs.1/-
2. For each summons to defendant personally served Re.0-8-0
3. For each summons to a witness personally served As.3 or 4.

I am certain that if the above procedure is adopted there would be a decided improvement both in the morality of the process servers and amins and in the effective service of summons and warrants. The selection of men for this duty, should be carefully conducted, and those who creditably discharge their duties should have some prospect of promotion held out to them. The pay of the staff in the office should also be improved with a view to check the present deliberate giving away of advance information to parties who are about to be served or dealt with under the Orders of the court.. The moral tone here is so low that it is said that some of the staff are in the pay of parties deliberately intending to evade the summons of the Court.

As an analogous instance, I may state that in the telegraph department, the fact, that the delivery peons are paid a certain fixed amount for every message delivered, has resulted in prompt delivery of the messages.

The

The present service of notices and warrants in execution of decrees is most unsatisfactory and calls for some early improvement. I cannot see why some form of substituted service in the case of notices should not be instituted after the Amin has once failed to serve the judgment debtor. The service of notice at the last known address of the judgment debtor or by public advertisement or by beat of Tom Tom ought to meet the case.

I trust that the above suggestions will meet with your Honour's approval.

Sd/-W. C. Rose.
Manager.

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"C o p y"

Registrar.

Statement shewing the number of commercial suits filed for the year 1918 - 1919 and also the mode of their disposal

| Year 1918 - 1919. | Class | Pending from previous year. | Filed | Total | Disposed of With contest | Disposed of Without contest | Total | Average duration With contest | Average duration Without contest. | Pending. | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|
| On Negotiable Instrument | O.S. | 7 | 12 | 19 | 4 | 9 | 13 | 326.4 | 118.6 | 6 | |
| | S.C. | 68 | 452 | 520 | 40 | 422 | 462 | 215.2 | 102.3 | 58 | |
| For damages for breach of contract to supply goods or to manufacture goods. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| For price of goods supplied including what are known as ~~xxxx~~ suits on accounts between traders or against traders. | O.S. | 3 | 11 | 14 | 2 | 3 | 5 | 278.6 | 162.4 | 9 | |
| | S.C. | 77 | 250 | 327 | 14 | 224 | 238 | 196.2 | 122.2 | 89 | |
| For damages for loss of or injury to goods as between seller and buyer or against carriers. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| Other suits (nature to be specified in which traders are concerned as such. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| T o t a l | O.S. | 10 | 24 | 34 | 6 | 12 | 18 | | | 16 | |
| | S.C. | 145 | 702 | 847 | 54 | 646 | 700 | | | 147 | |

Bangalore
Dated 9th November 1921.

"C o p y"

REGISTRAR.

Sd/- S.Venkatakrishniah,
Subordinate Judge.

Statement shewing the number of commercial suits filed for the year 1919 - 1920 and also the mode of their disposal

| Year 1919 - 1920. | Class | Pending from previous year. | Filed | Total | Disposed of: With contest | Disposed of: Without contest | Total | Average duration: With contest | Average duration: Without contest. | Pending. | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|
| On Negotiable Instrument | O.S. | 6 | 14 | 20 | 3 | 8 | 11 | 342.6 | 162.8 | 9 | |
| | S.C. | 58 | 516 | 574 | 42 | 460 | 502 | 222.2 | 126.9 | 72 | |
| For damages for breach of contract to supply goods or to manufacture goods. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| For price of goods supplied including what are known as ~~xxxx~~ suits on accounts between traders or against traders. | O.S. | 9 | 14 | 23 | 3 | 8 | 11 | 302 | 180.5 | 12 | |
| | S.C. | 89 | 281 | 370 | 9 | 268 | 277 | 189.2 | 102.6 | 93 | |
| For damages for loss of or injury to goods as between seller and buyer or against carriers. | O.S. | 1 | | 1 | | | | | | 1 | |
| | S.C. | | | | | | | | | | |
| Other suits (nature to be specified in which traders are concerned as such. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| T o t a l | O.S. | 16 | 28 | 44 | 6 | 16 | 22 | | | 22 | |
| | S.C. | 147 | 797 | 844 | 51 | 728 | 779 | | | 165 | |

Bangalore
Dated 9th November 1921.

"Copy"
REGISTRAR.

Sd/- S.Venkatakrishniah,
Subordinate Judge.

I.C.

36

Statement shewing the number of commercial suits filed for the year 1916 - 1917 and also the mode of their disposal

| Year 1916 - 1917. | Class | Pending from previous year. | Filed | Total | Disposed of: With contest | Disposed of: Without contest | Total | Average duration: With contest | Average duration: Without contest. | Pending. | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|---|
| On Negotiable Instrument | O.S. | 5 | 12 | 17 | 3 | 8 | 11 | 287.6 | 112.6 | 6 | |
| | S.C. | 83 | 436 | 519 | 47 | 383 | 430 | 232.4 | 93.8 | 89 | |
| For damages for breach of contract to supply goods or to manufacture goods. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| For price of goods supplied including what are known as ~~xxxxx~~ suits on accounts between traders or against traders. | O.S. | 2 | 3 | 5 | 1 | 2 | 3 | 248.7 | 134.6 | 2 | |
| | S.C. | 66 | 318 | 384 | 18 | 285 | 303 | 212.6 | 102.3 | 81 | |
| For damages for loss of or injury to goods as between seller and buyer or against carriers. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| Other suits (nature to be specified in which traders are concerned as such. | O.S. | | | | | | | | | | |
| | S.C. | | | | | | | | | | |
| T o t a l | O.S. | 7 | 15 | 22 | 4 | 10 | 14 | | | 8 | |
| | S.C. | 149 | 754 | 903 | 65 | 668 | 733 | | | 170 | |

Bangalore
Dated 9th November 1921.

"Copy"

Sd/- S.Venkatakrishniah,
Subordinate Judge.

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REGISTRAR.